

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**
(*Special Original Jurisdiction*)

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THURSDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND SEVEN

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P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

* * *

WRIT PETITION No.26191 of 2006

Between:

**K. Yamini, D/o. K. Anand Rao
aged about 21 years, Occ. student,
r/o. H.No.12-2-830/A/42, Hill Colony,
Mehdipatnam, Hyderabad. ... Petitioner**

Versus

**The Regional Passport Officer,
Secunderabad. ... Respondent**

Counsel for the Petitioner: Sri B.Vijaysen Reddy (7385)

Counsel for the Respondent: None

Appeared

ORDER:

This Court ordered notice before admission on 18-11-
2006.

2. The writ petition is filed for a writ of mandamus to declare the action of the respondent in not entertaining the application dated 05-12-2006 of the petitioner for correction of date of birth as illegal, arbitrary, unjust and consequently to direct the respondent to entertain the application dated 05-12-2005 and change the date of birth in passport bearing no.A-3120433 and to pass such other suitable order as this court may deem fit and proper in the circumstances of the case.

3. It is stated that the petitioner is holding passport issued by the respondent bearing no.A-3120433. The said passport was issued basing on earlier passport bearing No.Y-622847 belonging to her mother. As the petitioner was dependent then, a common passport was issued to the petitioner and to her mother. True copy of Passport bearing No.Y-622847 is filed as Exhibit No.1. The true copy of the current passport bearing No.A-3120433 is filed as Exhibit No.2. It is stated that the date of birth of the petitioner in the original passport was wrongly mentioned as 15-2-1985 instead of her actual date of birth as 15-10-1985. It is stated that in the new passport the same error crept. In fact the date and year of birth shown in the passport is correct but month of birth is shown as February instead of October. The said mistake had occurred due to inadvertence, as her mother who filed her application indicated wrong date of birth.

4. It is also stated that on 05-12-2006, the petitioner approached the respondent's office and submitted application requesting to correct the date of birth. In support of the application, the petitioner submitted her secondary school certificate issued by the Board of Secondary Education, Andhra Pradesh wherein her correct date of birth as 15-10-1985 had been recorded. But the respondent failed to entertain or receive her application dated 15-12-2006 for correction of date of birth. It is stated that if her correct date of birth is not recorded, it would lead to several complications in future. The date of birth should have been corrected by the respondent by entertaining her application, as her SSC certificate is authentic proof of her date of birth. The action of the respondent in refusing to receive her application is illegal, arbitrary and unjust.

5. In such circumstances, it is stated that the petitioner is left with no other option except approaching this court praying for the appropriate reliefs as specified supra.

6. This Court in **Mohd. Nasrullah Khan V. Regional Passport**

Officer, Hyderabad^[1] it was held thus:

“In Ali Imran V. Regional Passport Officer, Secunderabad, I have considered the Circular dated 18.4.2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

- (a) *Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.*
- (b) *Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.*
- (c) *Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.*

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for

the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dt. 18.4.2001.”

7. In Durgempudi Venkata Raghava V. Passport Officer, Ministry

of External Affairs, Passport Office, Hyderabad^[2] it was held as hereunder.

“Placing reliance on the clarification issued on the aforesaid Circular, Writ Petition No.8533 of 2004 was disposed of directing the respondents to consider the representation of the petitioner along with the Secondary School Certificate issued by Secretary, Board of Secondary Education, Andhra Pradesh and pass appropriate orders in the light of the observations made in the said judgment.

It is no doubt true that the present Writ Petition was filed in the year 1997 and the Government under Ministry of External Affairs issued the Circular referred to supra on 18.4.2001. As can be seen from the material available on record, the certificates, which had been produced before this Court, it is clear that it is only a bona fide mistake, which had crept in.

Apart from this aspect of the matter, no counter-affidavit had been filed denying the specific averment made in the affidavit filed in support of Writ Petition that along with the application form for passport, the Travel Agent also enclosed copies of S.S.C. certificate, Intermediate certificate and also Degree

certificate. Therefore, it is evident that without verifying the date of birth, the respondent authority just took the date of birth as filled up in the application form and issued the passport. Hence, it is needless to say that it is only a bona fide mistake.

The learned Senior Standing Counsel for Central Government, no doubt submitted that in such a situation, if the passport was issued prior to the said circular it would be proper to give an opportunity to the Writ Petitioner to file fresh application for issuance of passport to the competent authority.

In the light of the facts and circumstances, especially in view of Clause (a) of the Circular, dated 18.4.2001 referred to supra and also in view of the fact that all these copies of documents also had been produced at the time of filing of the application form but a bona fide mistake had crept in, the Writ Petition is disposed of with the following directions.”

8. In the light of the circular referred to supra and also the decisions specified supra, the action of the respondent is not justified. In view of the same, the writ petition is disposed of directing the respondent to entertain the application of the petitioner for correction of correct date of birth in the light of the facts and circumstances and also pass appropriate orders in the light of the circulars referred to supra and also the views expressed by this Court in the decisions referred to supra, within four weeks, from the date of receipt of a copy of this order.

9. The writ petition is disposed of. No costs.

JUSTICE P . S .

NARAYANA .

13/09/2007

IsL

[\[1\]](#) 2005(1) ALT 95

[\[2\]](#) 2005 (1) ALT 751